

Exhibit 62

2075-30

Pages 237 thru 241, 262 thru 264, 268

1 document?

2 A I do.

3 Q All right. Look at the spring, the water
4 sample from the spring. What did this spring
5 reflect as far as bacterial presence?

04:06PM

6 A Compared to the other samples, high bacterial
7 counts, including total coliform, fecal coliforms,
8 E. coli and Terracoccus and a hit of Salmonella.

9 Q All right. In your analysis, you would call
10 this a bacterial contaminated spring, just to use a
11 general expression; is that okay?

04:06PM

12 A Yes.

13 Q Do you have an opinion, sir, what is the
14 source of the bacteria in this spring?

15 A I would have to look at all the details of the
16 conditions of sampling as we discussed. I can't
17 remember a specific spring incident.

04:06PM

18 Q Did -- so as part of your opinions, you didn't
19 look at any place where bacteria was found to draw a
20 conclusion about what the source was?

04:07PM

21 A No. My opinion is that bacterial
22 contamination is pervasive within the watershed.

23 Q All right, but my question was -- let me put
24 it differently. Is it your intention to testify to
25 the court that the bacterial contamination in the

04:07PM

1 Saunders spring is from the land application of
2 poultry litter?

3 A It may be pending review of other data that
4 surrounds this sample.

5 Q Is that your opinion today? I need to know 04:07PM
6 what your opinion is today.

7 A I don't necessarily have a specific opinion
8 concerning the source of these bacteria in the
9 spring because I would need to review the other data
10 that surrounds this particular sample. 04:07PM

11 Q All right.

12 A I do note that 17 beta-Estradiol seems to be
13 present in high concentrations. That's potentially
14 indicative of poultry waste.

15 Q If -- hypothetically if it was made known to 04:08PM
16 you that there was manure in this spring, how would
17 that affect your analysis?

18 A Well, if it was poultry manure, it would
19 confirm my analysis.

20 Q All right. Thanks for helping me to be more 04:08PM
21 precise. Cattle manure?

22 A If it could be demonstrated to me that there
23 was cattle manure that had been applied here or was
24 present in the spring, then I would eliminate this
25 from my -- from consideration. 04:08PM

1 Q All right. Let's --

2 A But I wouldn't necessarily do that. I would
3 say that there would be a cattle manure component
4 present, but there might be other data that suggest
5 a poultry manure presence, and so I would say that
6 there's cattle manure present. There might be other
7 information that suggests a poultry contribution.

04:08PM

8 Q Turn over to Bates number 5453 of the same
9 exhibit. Are you there with me?

10 A Yes, I am.

04:09PM

11 Q All right. What does this sheet reflect?

12 A This sheet reflects an analysis of the
13 Saunders well. So from looking at the latitudes and
14 longitudes, these are pretty close together. That's
15 what it reflects in that analysis.

04:09PM

16 Q All right. What does the bacterial analysis
17 of the Saunders well show?

18 A It shows it's non-detect.

19 Q All right. So this would be -- can we call
20 this a non-bacterial contaminated water well sample?

04:09PM

21 A Well, we don't have any detected bacteria.
22 There may be other chemical or biological data that
23 I've not considered that someone else has considered
24 that would suggest poultry contribution to this, but
25 I would consider this not to contain any detected

04:10PM

1 bacteria.

2 Q All right. Do you know whether or not the
3 Saunders land applied poultry litter at this
4 property?

5 A Right now I do not know specifically. That, 04:10PM
6 in fact, might not be relevant.

7 Q It might not?

8 A No.

9 Q If this case is about the land application of
10 poultry litter, the fact that their water well is 04:10PM
11 not contaminated is not a relevant consideration in
12 your mind, sir?

13 A No, no. If their water well being not
14 contaminated if they applied poultry litter, this
15 result would say, at least with respect to the 04:10PM
16 instantaneous sample that was taken, no bacterial
17 contamination was found. That's what it says.

18 Q So you're saying maybe the next day bacteria
19 could be present?

20 A It's possible. 04:11PM

21 Q All right. These water well samples that you
22 are relying on for your opinion, how many times were
23 these wells sampled?

24 A Once.

25 Q All right. Don't they all suffer from that 04:11PM

1 same problem then? One sample is inadequate to
2 characterize what's in that well?

3 A Well, one sample without detection doesn't say
4 that it could never happen, but if you have a
5 detection, it says it did happen.

04:11PM

6 Q One time?

7 A One time.

8 Q According to EPA guidelines, how many samples
9 are required for compliance with the drinking water
10 standards?

04:11PM

11 A I don't know as we sit here today.

12 Q If you assume with me that the Saunders do
13 land apply poultry litter, and I can represent it's
14 very much in evidence in other depositions that they
15 do, they're a poultry grower, then you would have to
16 agree that at least in this instance, this poultry
17 grower land applying poultry litter has not
18 contaminated his groundwater well based upon the
19 data you have?

04:12PM

20 A I would conclude that this poultry grower who
21 applies litter, on the day that this analysis was
22 made, there was no contamination found in their
23 well.

04:12PM

24 Q Sir, are you familiar -- well, this document
25 came from your documents, PI Fisher 2644,

04:13PM

1 A I would believe so, yes.

2 Q I, as counsel for Peterson Farms, sent some

3 interrogatories to the State, and I got responses

4 yesterday or last night, and you're referenced in

5 them, so let me ask you a couple of questions. One

04:46PM

6 of the questions I asked, and let me ask you to

7 listen closely to the question, and it's my

8 Interrogatory No. 1 from my December 21st, 2000

9 (sic) set. For each location where you contend

10 fecal bacteria contamination from poultry waste from

04:46PM

11 any poultry growing operation under contract with

12 Peterson Farms was identified, your answer should

13 include, but not necessarily be limited to,

14 identifying the specific source location, identify

15 the date and location where you contend that fecal

04:46PM

16 bacteria contamination was detected, identify the

17 species and concentration of the fecal bacteria,

18 identify the dates the poultry waste was applied to

19 the source location, and fully describe the basis

20 for your contention that the fecal bacteria

04:46PM

21 contamination derived from poultry waste at the

22 source location. Let me let you look at it. It was

23 long. And the question in non-lawyer terms is, if

24 you contend that any of the bacteria you detected

25 came from a land application site where poultry

04:47PM

1 litter originating in a Peterson contract farm were
2 applied, tell me what the basis for that contention
3 is. You're referenced as one of the elements of the
4 State's evidence in response to that interrogatory.

5 So, Dr. Fisher, tell me, sir, to what extent can you
6 testify that you have identified any bacterial
7 contamination at any location within the Illinois
8 River watershed that has originated from the litter
9 from a Peterson contract farm in the Illinois River
10 watershed?

04:47PM

04:48PM

11 MR. PAGE: Object to the form.

12 A We have a circumstance where there is a
13 coalescence of events, and it's outlined in here.

14 Q Let me have the answer back because I want
15 your answer, not just the State's.

04:48PM

16 A Well, I'm giving you the answer.

17 Q Okay. Go ahead.

18 MR. McDANIEL: I just don't want him to
19 read what the lawyers said.

20 A There is a specific Peterson contract grower,
21 Waymon Rhoads, which is the specific one. Waste
22 from Waymon Rhoads was observed being loaded there
23 and carried to a field at a specific location. That
24 waste was applied at that field. At some time
25 somewhat removed, not long after, maybe -- I've

04:48PM

04:48PM

1 forgotten the dates, but fairly shortly after,
2 within maybe one or two weeks, a rainfall event
3 occurred which resulted in runoff from that field,
4 which was sampled by an edge of field sample, and
5 that edge of field sample was found to contain high
6 levels of bacteria.

04:48PM

7 Q What kind of bacteria?

8 A I'd have to look at the analytical data.

9 Q Is that it?

10 A That's it.

04:49PM

11 Q Okay. Sir, is it --

12 MR. PAGE: Let me object to the form of the
13 last question. It was ambiguous to me.

14 MR. McDANIEL: The is that it question?

15 MR. PAGE: Yeah.

04:49PM

16 Q Is there anything else to your answer?

17 MR. PAGE: With regard to the interrogatory
18 question?

19 MR. McDANIEL: Yeah. I'll strike it, I'll
20 strike it.

04:49PM

21 Q You answered the question and we'll go to the
22 next question, all right? I'm not trying to waste
23 time or create confusion. Are you aware of any
24 regulatory standard, Dr. Fisher, that specifies what
25 the bacterial limits must or cannot -- excuse me.

04:49PM

1 movement of ground water.

2 Q All right. Let's not debate that point.

3 The -- has the State to your knowledge done anything

4 to trace the bacteria in that edge of field runoff

5 to any waters of the state?

04:53PM

6 A I don't know.

7 Q And based upon your answer, that's the only

8 circumstance you can cite that is responsive to the

9 interrogatory I questioned you --

10 MR. PAGE: Object to the form.

04:53PM

11 A That's the only one I was aware of when that

12 question was posed to me.

13 Q Let me follow up on Mr. George's question.

14 Have you ever observed Peterson Farms, Incorporated

15 spreading poultry litter in the Illinois River

04:53PM

16 watershed?

17 A Personally? Any observation?

18 Q Have you observed it or received a report that

19 it has occurred?

20 A I have observed or we have had reports of

04:54PM

21 observations of waste from Peterson Farms growers

22 being spread in the Illinois River watershed. Those

23 reports include at least the report we just cited,

24 which is from an investigator, and in addition to

25 that, the Oklahoma Department of Agriculture, Food &

04:54PM